


NCLBA UPDATE: November 18, 2002

To: Superintendents, Principals, and School Board Chairs
From: Ray McNulty, Commissioner 
Re: No Child Left Behind Act Update – **HIGH PRIORITY**
Date: November 18, 2002

There is no doubt that NCLBA has caused varying levels of tension and stress for us all. Please keep in mind that the department is working just as hard as you are in trying to understand and implement this complex law. It may not seem like it at times, but we are trying to make this process as straightforward as possible for you. We know we have made mistakes – we'll probably make a few more; we realize that it has been frustrating at times not knowing what's coming next - we have been frustrated, as well. We continue to receive conflicting information from the US DOE, but we recognize that they, too, are trying to provide guidelines as efficiently as possible. Attached to this memo are two documents that provide a sense of the climate around NCLBA from the US DOE.

NCLBA is the law and the challenges it represents to us are real. Only through collaboration, will we end up with the best product for Vermont's education community. We will continue to question these challenges, but we have every intention to move forward to meet the legal requirements. The best tool we have for making this work for all of us is open and honest communication. We will do our part by keeping you informed. I urge you to call the department when you have questions, concerns and suggestions; we will do everything we can to provide the support and answers you need. Let's remember that we all share the same goal of providing quality education for our children.

With that said, the purpose of this update is to share insights and information that we have gained from our contacts in the US DOE and our interactions with other educational leaders in Vermont and other states. **Please read this thoroughly and share it with your staff and colleagues.**

Definition of LEA: For purposes of this law, the state Department of Education has defined the LEA as the supervisory union. This definition is currently under review as to whether or not it is consistent with the practices of NCLBA. Pending final review, we will stay with this interpretation.

Status of final regulations: Although final regulations for key provisions of the law have yet to be issued, it is likely they will not veer far from the statutory language that we have been grappling to comprehend and implement for the past 10 months. Thus far, very few of the proposed regulations or statutory guidance documents issued have made the implementation of NCLBA easier to undertake. Eight other chief state school officers and I met privately with Secretary Rod Paige in September, and he readily admitted that NCLBA is complex legislation. But there was no doubting the Secretary's resolve to have the law implemented conscientiously. His October 22nd letter to chief state school officers (enclosed) underscored this observation quite dramatically.

Achieving a common understanding of key NCLBA provisions: Attached to this memo is a summary of some of the key provisions of the NCLBA that the department, LEAs, and schools are expected to implement this year. This is not an exhaustive list, yet is one that we encourage you to share with your staff and colleagues so that a common understanding of the law continues to emerge.

Accountability: As most of you know, the results of the statewide assessments published in mid-September serve as baseline data for the state's adequate yearly progress (AYP) system under NCLBA. We used these data to determine which of our Title I priority schools had made sufficient progress over the past two years to be removed from priority status. (And I'm proud to say that 22 of our 28 priority schools made sufficient gains to be removed from priority status.) Our next major task is to submit to Washington by January 31, 2003, an AYP proposal that conforms to the requirements of NCLBA. Once our proposal is approved, we will begin to publish the performance targets that ensure all students in all subgroups (economic background, race and ethnicity, disabilities, and English language learners) achieve proficiency within 12 years. A central focus of next year's Consolidated Federal Application process will be on investments that enable schools to achieve schoolwide and subgroup targets.

Consolidated Federal Programs Application: The CFP application review letters for Titles II-A, II-D, and V have been completed. The CFP team is working diligently to improve and to significantly simplify the application process for next year. The team will be meeting with small groups of local CFP leaders, business managers, and superintendents to discuss the ideas for streamlining the application process and making it a truly Web-based application process, where 85 percent or more of the application is "checking the appropriate boxes." Marc Hull will be contacting the various leadership groups soon to arrange these meetings.

Teacher Quality: Vermont has nearly 800 teachers on waivers. Of these, the majority are teachers licensed in other states who have yet to complete Praxis exams. Included in the overall number are more than 400 teachers who have been on waivers for more than a year or two and another 125 who hold licenses but are teaching out of field. It is these 500 or more teachers who must become highly qualified by the beginning of the 2005-06 school year. Title I [§1119 (l)] requires that LEAs use not less than 5 percent or more than 10 percent of their Title I funds in 2002-04 and 5 percent thereafter on professional development activities to ensure that these teachers become highly qualified. Because wording in the regulatory guidance around this requirement leaves room for interpretation, the CFP team reviewers did not require districts to set aside 5 percent of their Title I funds for this purpose. I want to emphasize, however, that every child deserves to be taught by highly qualified teachers, and I strongly encourage districts to invest Title I and II-A funds in ways that ensure that the highly qualified teacher requirements are met within three years.

Paraprofessional requirements: I understand there has been a miscommunication on the subject of paraprofessional requirements (FM# 02-15). For this, I apologize. We are taking steps to cut down on miscommunications, but I must admit that at this stage differing interpretations of the law can be found across states, within the US DOE, and among members of Congress. However, we will be more diligent in trying to speak with one voice on the straightforward issues in NCLBA. It is very important for everyone to understand that all paraprofessionals in schoolwide program schools, hired since NCLBA was signed, are expected to meet *one* of three requirements: 1) two years of higher education, 2) an associate's or higher degree, OR 3) meet a rigorous standard of quality through an assessment of one's knowledge of and ability to assist in instructing reading, mathematics, and writing. A college education is not required if option three can be satisfied.

Presently several assessment options are being explored to satisfy the third qualifying option. A number of districts have developed very thoughtful professional development syllabi for paraprofessionals with an assortment of portfolio and/or more traditional assessments built into their proposals. Ones that come immediately to mind include Southwest Vermont and Springfield. Several districts have developed assessments (e.g., Burlington, Franklin Northeast), which undoubtedly will be further refined. The Vermont

State Colleges (CCV, LSC) are working with a number of school districts to develop courses and assessments. Karrin Wilks from VSC is convening a group later this month to discuss options. As you may know, ETS has developed an assessment that can be purchased, administered, and scored (I am referring to the setting of cut scores) in a variety of ways. Their Web site is quite informative (www.ets.org). Several excellent resources are available, including ones from the Vermont Paraeducator Task Force, the VT-NEA, and more.

I have strongly supported the position that the state should not rush to develop an assessment for paraprofessionals. Districts' needs differ; the availability of "highly qualified" personnel also differs from district to district. I support having a variety of local and statewide options to meet this requirement.

One important question that has yet to be clearly answered by the US DOE is whether or not the state Department of Education will be required to attest to the rigor, validity and reliability of local paraprofessional assessments. I fully suspect that this will become an issue during the upcoming reauthorization hearings for IDEA. Transportability of one's qualifications is another issue that has surfaced and awaits further word from Washington.

In order to perform their work well, I believe that the focus should be on ensuring that paraprofessionals receive the professional development they need and deserve. I would prefer to see districts develop strong interview procedures so that they hire qualified candidates and then provide high-quality, ongoing professional development. If we are forced to have an entry gate, I would make the springs as loose as possible with the idea that apprenticeship learning documented by portfolios and coupled with good supervision and support will yield far better results for Vermont's children than putting a lot of effort into building entry gates with tight springs.

Resources: Copies of the NCLBA legislation, proposed and final regulations, non-regulatory guidance, and topical discussions (e.g., accountability, parent involvement) are available for downloading or word searches on the NCLBA Web site (www.ed.gov). As always, our legal staff, CFP team, School Improvement team; Standards, Assessment, and Accountability team and others across the department will gladly respond to your questions and concerns.

We value your continued input and advice as we move forward to implement the spirit and letter of these new federal requirements. For the foreseeable future, schools, supervisory unions and districts, and the Vermont DOE will be engaged in the challenge of responding to NCLBA requirements. If you have any questions about the information included in this bulletin, please contact the staff listed below:

| Name | Phone/e-mail | Subject |
|-------------|--------------------------------------------------------------------------------|-------------------------------------------------------|
| Marc Hull | 828-3125/ mhull@doe.state.vt.us | Consolidated Program implementation and policy issues |
| Bud Meyers | 828-5101/ bmeyers@doe.state.vt.us | Assessment issues |
| Bill Reedy | 828-5103/ breedy@doe.state.vt.us | Legal issues |
| Gail Taylor | 828-5158/ gtaylor@doe.state.vt.us | AYP/supplemental services issues |

Enclosures:

Summary of Local District Requirements

Secretary Rod Paige's letter to Chief State School Officers (October 23, 2002)

Stockton California Record article: Assistant secretary: no waivers of No Child Left Behind Act

CCSSO Statement Regarding No Child Left Behind

NCLB Report Card Reporting Requirements

No Child Left Behind Act of 2001

Summary of Local District Requirements

All local education agencies (supervisory districts/unions) will be responsible for the following:

Communications to the Community:

- ☐ Produce annual district and school report cards by the beginning of each school year with disaggregated assessment results and information on Title I schools identified for improvement.
- ☐ Provide to the public the LEA's status toward having all teachers "highly qualified" by the end of the 2005-06 school year. (The proposed regulations define "highly qualified" as meeting regular state certification requirements.)
- ☐ In Title I schools, the LEA or school must provide notice to parents of their right to know their child's teachers' qualifications, and notify them in a timely manner if the child is assigned or taught by a teacher who is not "highly qualified" for four or more consecutive weeks.
- ☐ Adopt policies, in conjunction with parents, on the rights of parents upon request to inspect *any* survey created by a third party (a survey funded by a non-U.S. Department of Education source). If the third-party survey involves political affiliations, mental or psychological problems, sex behavior and attitudes, illegal or anti-social behavior, critical appraisals of family members, income, or privileged relationships such as doctors or lawyers, the parents may opt their children out of its administration. Annually, at the beginning of the school year, school districts must notify parents "directly" of these policies and must notify parents of the specific or approximate dates when such surveys might be administered.

"Highly Qualified" Staff:

- ☐ Beginning in 2002-03, hire only "highly qualified" teachers for Title I, Part A programs.
- ☐ If there are teachers in the district who are not "highly qualified," spend 5 percent (minimum) to 10 percent (maximum) of Title I, Part A funds on professional development to help them become "highly qualified." In addition, Title II funds may be used to support these activities.
- ☐ Beginning January 8, 2002, newly hired paraprofessionals for Title I, Part A programs must have a secondary school diploma or GED and one of the following: completion of two years of higher education; an associate's degree or higher; or have met a rigorous standard through a local or state academic assessment.
- ☐ Paraprofessionals currently employed in Title I, Part A programs must meet these new requirements by January 8, 2006.

Persistently Dangerous Schools:

- ☐ Persistently dangerous schools will be defined by the state; schools will be notified of procedures and responsibilities related to this section of the Act after June 2003.

Limited English Proficient (LEP) Students:

- ☐ Include LEP students in state assessments.
- ☐ Annually assess the English language proficiency of all LEP students in reading, writing, speaking, and listening, and report data on English language proficiency to the Vermont DOE. Additional information on assessments will be forthcoming.

- ☐ Test LEP students for reading and language arts in English after attending school in the U.S. for three consecutive years.

Homeless Students:

- ☐ Designate a liaison for students in homeless situations, even if no child in the district is currently considered homeless.
- ☐ Provide transportation to and from the school of origin for homeless students, if requested by the parent, so the child can continue his or her educational experience uninterrupted.

NAEP Testing:

- ☐ Participate in National Assessment of Educational Progress (NAEP) testing if it is requested to participate in the state sample.

TITLE I, PART A- School Improvement, Corrective Action and Restructuring Requirements:

Under Vermont's accountability system, there presently are six schools in four LEAs (supervisory districts/unions) identified as in need of technical assistance. These schools have a number of requirements to fulfill.

School Improvement Status

*A Title I school is in school improvement status if it fails to make Adequate Yearly Progress (AYP) for **two consecutive years**.*

School District Requirements – Schools in the first year of school improvement status:

- ☐ Must notify parents of school's identification and improvement plan.
- ☐ Must use a peer review process to assist in the review of school's improvement plan.
- ☐ Must spend at least 10 percent of the school's Title I allocation each year on professional development to address lack of AYP.
- ☐ Must provide students in the identified school the option to transfer to another school in the district that has not been identified for improvement, and must provide or pay for transportation. If space is limited, priority must be given to lowest-achieving students from low-income families.
- ☐ Funds for Transportation: Unless a lesser amount is needed, LEA must spend 15 percent of its Title I allocation for transportation to support the transfer option.

*School District Requirements - Schools in the second year of School Improvement Status (has not made adequate yearly progress for **three consecutive years**):*

- ☐ Must continue to provide the transfer option (on a priority basis).
- ☐ Must offer supplemental educational services (priority given to lowest-achieving students – only low-income students eligible) with state-approved providers.
- ☐ Funds for Transportation and Supplemental Services: We are still seeking legal opinion on this matter, but until further notice, unless a lesser amount is needed, LEA must spend 20 percent of its Title I allocation as follows: 5 percent for transportation to support transfer option; 5 percent for supplemental services; remaining 10 percent for transportation, supplemental services, or both.

Corrective Action Status

*A Title I school is in Corrective Action Status if it fails to make AYP for **four consecutive years**.*

School District Requirements - Schools in Corrective Action Status:

- ☐ Must continue to provide transfer option and supplemental services.
- ☐ Must take at least one of following actions:
 1. Replace school staff relevant to failure to make AYP.
 2. Implement new curriculum and provide appropriate professional development.
 3. Significantly decrease management authority at school level.
 4. Appoint outside expert to advise school on school improvement plan.
 5. Extend school year or school day for school.
 6. Restructure internal organization of school.
- ☐ Must publish information on corrective action taken to public and parents of enrolled students.

Restructuring Status

*A Title I school is in Restructuring Status if it fails to make AYP for **five consecutive years**.*

School District Requirements - Buildings in Restructuring Status:

- ☐ Must continue to provide transfer option and supplemental services.
- ☐ Must take at least one of following actions:
 1. Reopen school as a charter school.
 2. Replace all or most of school staff relevant to failure to make AYP.
 3. Contract with outside entity to operate school.
 4. Turn operation of school over to state (if state agrees).
 5. Any other major restructuring of school's governance arrangement that makes fundamental reforms.

School District Option to Delay Implementation of Requirements

If a school makes AYP for one year, the LEA may delay the transfer option, supplemental services, corrective action or restructuring for one year.

These requirements will undoubtedly raise a number of questions about definitions of terms, timelines, and many other implementation issues. Vermont, like every other state in the nation, is continuously working to deal appropriately with these new NCLB requirements.